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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|-----------------------|---------------------|------------------|
| 10/053,720 | 01/17/2002 | Michael Robert Dehart | DEH01-02 | 4224 |
| 7590 | 03/17/2005 | | EXAMINER | |
| ANASTASSIOS TRIANTAPHYLLOS P.O. Box 27629 Houston, TX 77227 | | | RODRIGUEZ, JOSEPH C | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3653 | |

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/053,720 | DEHART ET AL. | |
| | Examiner | Art Unit | |
| | Joseph C Rodriguez | 3653 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 8-13,21-23 and 25-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 8-13,21-23 and 25-28 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 17 January 2002 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

A review of the previously cited prior art references has lead to a withdrawal of the previous indication of Allowable Subject Matter. The claims are now treated as follows-

Claim Rejections - 35 USC § 112

These rejections have been withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8-10 and 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoyt (US 474,662).

Regarding claims 8, 25, Hoyt teaches an apparatus (Fig. 1-6) comprising a separator (Fig. 2) with an inlet for receiving material (end of I) and a passageway (area in A), a first outlet (connected to B and shown as S, S2 in fig. 6), a second outlet (bottom of C) with a sand tank (p. 2, ln. 32-38), and a rotatable screen (Fig. 3, H) with drive means (G), wherein the material is screened during axial flow and the rotating screen centrifugally directs material towards the first outlet through the screens substantially horizontal screening surface (p. 1, ln. 60 et seq.). Here, Hoyt teaches a

series of the separator devices in series, wherein the previous device as well as transport passage (T, T2) can be regarded as a hopper and water means as Hoyt teaches supplying the material and water from one device to the next (Fig. 6; p. 2, ln. 50-83).

Regarding claims 9-10 and 26-27, Hoyt further teaches a first water holding tank (p. 2, ln. 15-20) with a separator outline line (Fig. 2, i2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-13, 21-23 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoyt in view of King (US 3,596,759) and legal precedent.

Hoyt as set forth above teaches all that is claimed except for expressly teaching a water pump for pumping material from the hopper to the separator or for pumping water to the hopper and multiple water holding tanks. Legal precedent, however, already teaches that duplicating known features, such as a water holding tank, is a non-obvious modification. See MPEP 2144.04 (VI.B). Further, King teaches that the use of water pumps to transfer water or slurry is also well known in the gravel separating arts (Fig 1, near 26, 29). Moreover, the water means ensures that the articles to be separated do not stick to the hopper surface (col. 3, ln. 19-38) and the pump provides

the common-sense benefit of a higher transport rate, thus allowing an easier and faster transfer of the material to be separated. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention of Hoyt as taught above to facilitate an easier transfer of the materials to be separated.

Conclusion

Any references not explicitly discussed above but made of record are considered relevant to the prosecution of the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C Rodriguez whose telephone number is 703-308-8342. The examiner can normally be reached on M-F during normal business hours (9 am – 6 pm, EST).

The **Official** fax phone number for the organization where this application or proceeding is assigned is 703-872-9326 (After-Final 703-972-9327).

The examiner's **UNOFFICIAL Personal fax number** is 703-746-3678.

Further, the examiner is tentatively scheduled to move in April 2005 and the contact info at the new location will be as follows:

April 2005, Personal telephone number is 571-272-6942

April 2005, UNOFFICIAL Personal fax number is 571-273-6942

Further, information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only.

For more information about the PAIR system, see

<http://pair-direct.uspto.gov>

Should you have questions on access to the Private PMR system, contact the Electronic Business Center (EBC) at 866-217-9197 (Toll Free).

Alternatively, inquiries of a general nature or relating to the status of this application or proceeding can also be directed to the **Receptionist** whose telephone number is **703-308-1113**.

Signed by Examiner Joseph Rodriguez

jcr

March 14, 2005

A handwritten signature in black ink, appearing to read "Joseph Rodriguez". It is written in a cursive style with a long horizontal line extending to the right.